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23 UNITED STATES DISTRICT COURT
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25 FOR THE DISTRICT OF NEVADA
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1 JAMES V. DEPPOLETO JR.,

2 Plaintiff,

3 v.

4 TAKEOVER INDUSTRIES
5 INCORPORATED, *et al.*

6 Defendant.

CASE NO. 2:22-CV-2013

**AMENDED THIRD STIPULATION FOR
EXTENSION OF TIME**

**SPECIAL SCHEDULING REVIEW
REQUESTED**

7
8 **THIRD STIPULATION FOR EXTENSION OF TIME**

9 Plaintiff, James V. Deppoleto Jr. ("Mr. Deppoleto" or "Plaintiff"), by and through his
10 undersigned counsel, and Defendants, Takeover Industries Incorporated ("Takeover"), Tom Zarro
11 ("Zarro"), Michael Holley ("Holley"), Toby McBride ("McBride"), Joseph Pavlik ("Pavlik") and
12 NextGen Beverages, LLC ("NextGen") (collectively, the "Takeover Defendants"),¹ by and
13 through their undersigned counsel, hereby submit the following Third Stipulation for Extension of
14 Time for the Court's review:

15
16 WHEREAS, on November 9, 2023, the Court entered a Scheduling Order (ECF No. 37)
17 setting, among other deadlines: (a) May 7, 2024, as the deadline by which parties must complete
18 discovery; and (b) June 6, 2024, as the date for filing of dispositive motions;

19
20 WHEREAS, on April 30, 2024, the Parties filed a Second Stipulation for Extension of
21 Time (ECF No. 73), requesting that the discovery and dispositive motion deadline be extended;

22
23 WHEREAS, on May 2, 2024, the Court granted the Parties' request by Order (ECF No.
24 72), setting: (a) June 20, 2024, as the deadline by which the Parties must complete discovery; and
25 (b) July 22, 2024, as the date for filing dispositive motions;

26
27 WHEREAS, on June 20, 2024, the Parties submitted a Stipulation to Stay Case and Request

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¹ Plaintiff and the Takeover Defendants may be referred to as the "Parties."

1 for Status Check, due to ongoing settlement discussions and negotiations (ECF No. 75);

2 WHEREAS, on June 20, 2024, the Court entered a Minute Order staying the case and
3 vacating pending deadlines;

4 WHEREAS, in light of the continued settlement negotiations among the Parties, the Parties
5 have met and conferred and agree to extend the discovery and case dispositive motion deadlines,
6 such that;

7
8 (a) Pursuant to LR 26-1(b), discovery in this action shall be completed on or
9 before December 9, 2024;

10 (b) Dispositive Motions shall be filed and served no later than January 10, 2024;

11 (c) Pursuant to LR 26-1(b)(5), the deadline to file the joint pretrial order is
12 either: (i) 30 days after the dispositive-motion deadline; or (b) if dispositive
13 motions are filed, the deadline for filing the joint pretrial order should be
14 suspended until 30 days after decision on the dispositive motions or further
15 court order; and
16

17 (d) Pursuant to LR26-1(b)(6), the parties will include in the joint pretrial order
18 the disclosures required by Fed. R. Civ. P. 26(a)(3) and any objections to
19 them.

20 WHEREAS, pursuant to LR 26-3, the parties state as follows:

21 (a) After and in light of the Court's two recent decisions regarding the parties'
22 discovery disputes, the parties have exchanged initial written discovery,
23 followed by some supplemental responses having been produced. The
24 parties have also discussed a deposition schedule for the various fact
25 witnesses, and have already begun fact witness depositions, with the
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1 remainder to be completed over the course of approximately the next month.

2 (b) The parties need to complete responses to each other's respective discovery
3 requests, and remaining depositions need to occur;

4 (c) The parties have been negotiating over a potential resolution, but those
5 discussions appear to have not been productive in reaching a resolution of
6 all claims.

7
8 (d) Since the Court granted the Parties' first and second stipulations, the Parties
9 continued active settlement discussions. Given the claims at issue in this
10 lawsuit, the Parties were negotiating a very complicated potential resolution
11 that goes beyond a simple exchange of money for a settlement agreement
12 and release and requires additional time for negotiation, but those
13 discussions appear to have recently broken down.

14
15 (e) All discovery shall be completed no later than December 9, 2024.

16 WHEREAS, undersigned counsel certifies that this is the third stipulation for extension of
17 time to file motions pursuant to LR IA 6-1.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties, through their
19 undersigned counsel and subject to the approval of the Court, that all discovery shall be completed
20 no later than December 9, 2024.

21 IT IS FURTHER HEREBY STIPULATED AND AGREED by and between the parties,
22 through their undersigned counsel and subject to the approval of the Court, that all case dispositive
23 motions, along with supporting briefs and other papers, if any, shall be served and filed on or
24 before January 10, 2025. Briefing will be presented pursuant to the Court's Local Rules.
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IT IS SO ORDERED.

UNITED STATES MAGISTRATE JUDGE

DATED: _____

DATED this 24th day of September, 2024.

HUSCH BLACKWELL LLP

/s/ Patrick M. Harvey

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And

DATED this 24th day of September, 2024.

HALL & EVANS LLC

/s/ David Sexton

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CERTIFICATE OF SERVICE

1. On September 24, 2024, I served the following document(s): **THIRD STIPULATION FOR EXTENSION OF TIME**

2. I served the above document(s) by the following means to the persons as listed below:

☒ a. ECF System:

KURT R. BONDS on behalf of Defendants Takeover Industries Incorporated, Tom Zarro, Michael Holley, Toby McBride, Joseph Pavlik and NextGen Beverages, LLC
nvefile@hallevans.com; bondsk@hallevans.com

DAVID SEXTON on behalf of Defendants Takeover Industries Incorporated, Tom Zarro, Michael Holley, Toby McBride, Joseph Pavlik and NextGen Beverages, LLC
sextond@hallevans.com

And all other parties requesting notice.

☐ b. United States mail, postage fully prepaid:

☐ c. Personal Service:

I personally delivered the document(s) to the persons at these addresses:

☐ For a party represented by an attorney, delivery was made by handing the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.

☐ For a party, delivery was made by handling the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

☐ d. By direct email (as opposed to through the ECF System):
Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

☐ e. By fax transmission:

Based upon the written agreement of the parties to accept service by fax

1 transmission or a court order, I faxed the document(s) to the persons at the fax
2 numbers listed below. No error was reported by the fax machine that I used. A copy
of the record of the fax transmission is attached.

3 ☐ f. By messenger:

4 I served the document(s) by placing them in an envelope or package addressed to
5 the persons at the addresses listed below and providing them to a messenger for
6 service.

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Dated: September 24, 2024.

9 By: /s/ Patrick M. Harvey